

LEGISLATIVE MINUTES

MARLBORO TOWNSHIP COUNCIL MEETING

October 4, 2012

The Marlboro Township Council held its regularly scheduled meeting on October 4, 2012 at 7:00 P.M. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey.

Council President Cantor opened the meeting and announced that pursuant to the provisions of the Open Public Meetings Act, notice of the regularly scheduled meetings of the Township Council of the Township of Marlboro was faxed to the Asbury Park Press, the Star Ledger and News Transcript on January 9, 2012; faxed to the Board of Education Office; posted on the Bulletin Board of the Municipal Building, filed in the office of the Municipal Clerk and placed on the township website and Channel 77.

The Clerk called the Roll.

PRESENT: Councilman LaRocca, Councilwoman Marder, Councilwoman Mazzola, and Council President Cantor. Council Vice President Metzger was absent.

Also present were: Mayor Jonathan L. Hornik, Louis N. Rainone, Esq., Business Administrator Jonathan Capp, Municipal Clerk Alida Manco and Deputy Municipal Clerk Deborah Usalowicz.

Cub Scout Pack 85 led the salute to the flag.

Council President Cantor announced Second Reading/Public Hearing for Resolution #2012-341/Ordinance #2012-023 (Amending Chapter 177 - Firearms) was removed from the agenda.

Council President Cantor opened the Public Hearing on amending Marlboro's Open Space and Recreation Plan to include Penksa Farm property located at 60 Harbor Road - Block 171, Lot 50. As there was no one who wished to speak, the Public Hearing was closed.

Council President Cantor opened the Public Hearing on Ordinance #2012-24. As there was no one who wished to speak, the public hearing was closed. Discussion followed, during which Township Attorney Louis N. Rainone explained that the purchase of real

estate is time sensitive and delaying taking action could jeopardize the transaction. The following Resolution #2012-342/Ordinance #2012-24 (Authorizing Purchase Penksa Farm - 60 Harbor Road - Block 171, Lot 50 for Open Space Preservation and Recreation) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman LaRocca, and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-342

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2012-24

AN ORDINANCE AUTHORIZING THE PURCHASE OF PROPERTY KNOWN AS PENKSA FARM, LOCATED AT 60 HARBOR ROAD, MARLBORO, NEW JERSEY, ALSO KNOWN AS BLOCK 171, LOT 50 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF MARLBORO, MONMOUTH COUNTY, NEW JERSEY, FOR THE PURPOSE OF OPEN SPACE PRESERVATION AND FOR RECREATION

which was introduced on September 20, 2012, public hearing held on October 4, 2012, be adopted on second and final reading this 4th day of October, 2012.

BE IT FURTHER RESOLVED that notice of the adoption of this ordinance shall be advertised according to law.

The following Resolution #2012-343/Ordinance #2012-25 (Authorizing Partial Vacation of Right of Way - Conover Hills) was introduced by reference, offered by Councilwoman Mazzola, seconded by Councilwoman Marder, and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-343

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2012-25

AN ORDINANCE AUTHORIZING PARTIAL VACATION OF A RIGHT OF WAY PREVIOUSLY GRANTED TO THE TOWNSHIP OF MARLBORO WITH THE CONOVER HILLS SUBDIVISION

be introduced and passed on first reading and that the same be advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for

final passage on November 1, 2012 at 7:00 p.m. at the Marlboro Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at which time all persons interested will be given an opportunity to be heard concerning said ordinance.

ORDINANCE # 2012-25

AN ORDINANCE AUTHORIZING PARTIAL VACATION OF A RIGHT
OF WAY PREVIOUSLY GRANTED TO THE TOWNSHIP OF
MARBORO WITH THE CONOVER HILLS SUBDIVISION

WHEREAS, the procedure for the vacation of streets and roads is established by NJSA 40:67-19, et seq. which provides in pertinent part that the governing body may release and extinguish the public rights in and to roadways or parts of roadways that have been dedicated if it appears that the public interest will be better served by the release of such dedication.

WHEREAS, the subdivision application, Conover Hills, proposed an irregularly shaped 8,248 square foot right of way area dedicated along Gallya Grove Road to the Township of Marlboro for future improvements.

WHEREAS, Gallya Grove is a fully improved roadway within a 50-foot wide right of way. The subject 8,248 square foot right of way area is irregularly shaped and was dedicated as a result of the Conover Hills Subdivision. The 8,248 square foot right of way area is not required along Gallya Grove, as right of way width of 50 feet is sufficient pursuant to the Residential Site Improvement Standards (RSIS).

WHEREAS, G.S. Realty Corp was recently granted subdivision approval by the Marlboro Township Planning Board per Resolution No. PB 1061-11 dated March 21, 2012. This subdivision created three (3) new lots, two (2) of which front on Gallya Grove.

WHEREAS, G.S. Realty Corp has presented a request to the Township Council of the Township of Marlboro to consider vacating the 8,248 square foot right of way area which had been dedicated previously by others, and as described in the attached Metes and Bounds for a Partial Roadway Vacation Gallya Grove and sketch of proposed right of way vacation, so that this 8,248 square foot area will be merged with and subsumed by the new lots fronting on Gallya Grove, known as new Lots 16.02 and 16.03. This area will then become part of the new lots and will be owned by and maintained by the owners of those lots.

NOW, THEREFORE, BE AND IT IS HEREBY ORDAINED, by the Township Council of the Township of Marlboro, County of Monmouth, State of New Jersey, that a portion of right of way, Gallya Grove, in the Township of Marlboro, County of Monmouth, and State

of New Jersey, as described in the attached Metes and Bounds description and as shown on the attached "Sketch of Proposed Right of Way Vacation Gallya Grove" prepared by Falcon Industries and as shown on a plan entitled "Block 160.03, Lot 16, Township of Marlboro, Monmouth County, New Jersey Final Plat, Major Subdivision G.S. Realty Corp" prepared by JKR Engineering, as same affects lands known as new Lots 16.02 and 16.03; Block 160, is hereby vacated and all public rights therein extinguished by recording of this instrument.

BE IT FURTHER ORDAINED, that the Township of Marlboro, pursuant to the provisions of N.J.S.A. 40:67-1(b), hereby expressly reserves and excepts from vacation all rights and privileges currently possessed by public utilities (as defined in N.J.S.A. 48:2-13) and by any cable television company (as defined in the Cable Television Act, N.J.S.A. 48:5-1 et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, or any part thereof, to be vacated; and

BE IT FURTHER ORDAINED, that the Township Clerk's office is authorized to record a true copy of this Ordinance in the Monmouth County Clerk's Office pursuant to NJSA 40:67-21.

BE IT FURTHER ORDAINED, that a certified copy of this Resolution shall be provided to each of the following:

- a. G.S. Realty Corp
- b. Township Business Administrator
- c. Township Chief Financial Officer
- d. Township Engineer

The following Resolution #2012-344/Ordinance #2012-26 (Water Utility Bonds - Construction of New Water Treatment Plant/Well) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder. After discussion, the resolution/ordinance was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-344

BE IT RESOLVED by the Township Council of the Township of Marlboro that an Ordinance entitled:

ORDINANCE # 2012-26

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING FOR THE CONSTRUCTION OF A NEW WATER TREATMENT PLANT AND WELL IN AND FOR THE TOWNSHIP OF

MARLBORO AND APPROPRIATING \$7,600,000
THEREFOR, AND PROVIDING FOR THE ISSUANCE OF
\$7,600,000 IN WATER UTILITY BONDS OR NOTES OF
THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

be introduced and passed on first reading and that the same be
advertised according to law; and

BE IT FURTHER RESOLVED that the same be considered for
final passage on December 6, 2012 at 7:00 p.m. at the Marlboro
Municipal Complex, 1979 Township Drive, Marlboro, New Jersey, at
which time all persons interested will be given an opportunity to
be heard concerning said ordinance.

ORDINANCE # 2012-26

AN ORDINANCE OF THE TOWNSHIP OF MARLBORO, IN
THE COUNTY OF MONMOUTH, NEW JERSEY, PROVIDING
FOR THE CONSTRUCTION OF A NEW WATER TREATMENT
PLANT AND WELL IN AND FOR THE TOWNSHIP OF
MARLBORO AND APPROPRIATING \$7,600,000
THEREFOR, AND PROVIDING FOR THE ISSUANCE OF
\$7,600,000 IN WATER UTILITY BONDS OR NOTES OF
THE TOWNSHIP OF MARLBORO TO FINANCE THE SAME

BE IT ORDAINED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF
MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than
two-thirds of all members thereof affirmatively concurring), AS
FOLLOWS:

Section 1. The improvement or purpose described in
Section 3 of this bond ordinance is hereby authorized to be
undertaken by the Township of Marlboro, in the County of
Monmouth, New Jersey (the "Township"), as a general improvement.
For the improvement or purpose described in Section 3 hereof,
there is hereby appropriated the sum of \$7,600,000. No down
payment is required in connection with the improvement or purpose
for which obligations are authorized as provided in Section 3
hereof as said purpose is deemed to be self-liquidating and the
obligations authorized herein are deductible from the gross debt
of the Township, as more fully explained in Section 6(e) of this
bond ordinance.

Section 2. In order to finance the cost of the improvement
or purpose, negotiable bonds or notes are hereby authorized to be
issued in the principal amount of \$7,600,000 pursuant to the
Local Bond Law. In anticipation of the issuance of the bonds or
notes, negotiable bond anticipation notes are hereby authorized
to be issued pursuant to and within the limitations prescribed by
the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for which the bonds or notes are to be issued is for the construction of a new water treatment plant and well to be located at 337 Tennent Road in the Township, and including all other work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget or temporary capital budget (as applicable) of the Township is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. In the event of any such inconsistency and amendment, the resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget or amended temporary capital budget (as applicable) and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. No part of the costs thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the improvement or purpose, within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$7,600,000, but that the net debt of the Township determined as provided in the Local Bond Law is not increased by this bond ordinance and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An amount not exceeding \$1,700,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the improvement or purpose.

(e) This bond ordinance authorizes obligations of the Township solely for a purpose described in N.J.S.A. 40A:2-7(h). The obligations authorized herein are to be issued for a purpose that is deemed to be self-liquidating pursuant to N.J.S.A. 40A:2-46 and are deductible from gross debt pursuant to N.J.S.A. 40A:2-44(c).

Section 7. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized hereunder shall be reduced to the extent that such funds are so used.

Section 8. The full faith and credit of the Township is hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy ad valorem taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 9. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 10. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

The foregoing bond ordinance is approved.

The following Resolution #2012-345 (Authorizing Application to Local Finance Board) was introduced by reference, offered by Councilwoman Marder, seconded by Council President Cantor and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-345

RESOLUTION OF THE TOWNSHIP OF MARLBORO,
IN THE COUNTY OF MONMOUTH, NEW JERSEY,
MAKING APPLICATION TO THE LOCAL FINANCE BOARD
PURSUANT TO N.J.S.A. 40A:2-26(e) AND FOR
THE APPROVAL OF THE BONDS FOR PURPOSES OF N.J.S.A. 58:11B-9(a)

WHEREAS, THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY (the "Township"), desires to make application to the Local Finance Board for its review and consent to non-conforming maturity schedules pursuant to N.J.S.A. 40A:2-26(e), and approval pursuant to N.J.S.A 58:11B-9(a) of the issuance of bonds by the Township to the New Jersey Environmental Infrastructure Trust in connection with the Township's participation in the New Jersey Environmental Infrastructure Trust Program for the Township's construction of a new water treatment plant and well.

WHEREAS, THE TOWNSHIP COMMITTEE believes:

- (a) it is in the public interest to accomplish such purposes;
- (b) said purposes or improvements are for the health, welfare, convenience or betterment of the inhabitants of the Township;
- (c) the amounts to be expended for said purposes or improvements are not unreasonable or exorbitant; and
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of

the Township and will not create an undue financial burden to be placed upon the Township.

NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MARLBORO, IN THE COUNTY OF MONMOUTH, NEW JERSEY, as follows:

Section 1. The Application to the Local Finance Board is hereby approved, and the Township's Clerk, Administrator, Chief Financial Officer, Bond Counsel and Auditor along with other representatives of the Township, are hereby authorized to prepare such Application, to file such Application with the Local Finance Board and to represent the Township in matters pertaining thereto (including any related matters which may arise in the course of the Local Finance Board's review of the Application).

Section 2. The Township Clerk is hereby directed to prepare and file a copy of this resolution with the Local Finance Board as part of such application.

Section 3. The Local Finance Board is hereby respectfully requested to consider such Application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statute.

The following Resolution #2012-346 (Authorizing Contract Birdsall - Design/Bid Services - Tennent Road Treatment Plant) was introduced by reference, offered by Councilman LaRocca, seconded by Councilwoman Marder and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-346

A RESOLUTION AUTHORIZING AN AMENDMENT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN BIRDSALL SERVICES GROUP AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF ENGINEERING DESIGN AND BIDDING SERVICES IN CONNECTION WITH THE TENNENT ROAD AND HARBOR ROAD WATER TREATMENT PLANTS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER UTILITY DIVISION

WHEREAS, the Marlboro Township Municipal Utilities Authority (MTMUA) had previously determined that the construction of the Tennent Road Treatment Plant and reconstruction of the Harbor Road Treatment Plant were critical projects in need of attention between 2010 and 2013 ("projects"); and

WHEREAS, the MTMUA had obtained the necessary approvals from the New Jersey Department of Environmental Protection (NJDEP) which included the development of a new well, and retained CMX

Engineering for the design of both the Tennent Road and Harbor Road Treatment Plants; and

WHEREAS, upon the dissolution of the MTMUA, the Township initiated a value engineering study to determine whether the projects were essential and whether any cost savings could be realized; and

WHEREAS, it was determined by the Township that the projects were indeed essential, and suggestions for changes to the project design and scope were made; and

WHEREAS, the Township has applied for 75 percent interest free financing through the New Jersey Environmental Infrastructure Trust (NJEIT) Fund and anticipates a loan commitment upon meeting the remaining program conditions; and

WHEREAS, as a result of the value engineering study and pursuant to conditions posed by the NJEIT program which includes compliance with all current codes, the Township requires changes to the design plans; and

WHEREAS, CMX Engineering is no longer in business and its water group has been assumed by Birdsall Services Group; and

WHEREAS, Birdsall Services Group has agreed to complete the work, sign, seal and assume full responsibility for the overall design plans; and

WHEREAS, the Township desires to complete these critical infrastructure projects in order to ensure a safe water supply fully compliant with State and Federal regulations, increase the available water supply during times of peak demand, take steps to reduce dependency on external water supplies, extend well capacity and improve redundancy within system and lower the costs of water provision over the long term; and

WHEREAS, Birdsall Services Group has provided proposals dated August 24 and September 5, 2012 (the "Proposals") for such Professional Services in connection with the Projects; and

WHEREAS, the Township of Marlboro and Birdsall Services Group have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$188,500.00 for such Professional Services, as further described and set forth in Birdsall's Proposals, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds are available for this purpose from Account # 2-05- -500-288; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with Birdsall Services Group to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, Birdsall has previously completed and submitted a Business Entity Disclosure Certificate certifying that Birdsall Services Group has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between Birdsall Services Group and the Township of Marlboro, to expand the scope of services to include THE PROVISION OF ENGINEERING DESIGN AND BIDDING SERVICES IN CONNECTION WITH THE TENNENT ROAD AND HARBOR ROAD WATER TREATMENT PLANTS FOR THE DEPARTMENT OF PUBLIC WORKS, WATER UTILITY DIVISION ("Professional Services"), at a fee not to exceed \$188,500.00 for such Professional Services, as further described and set forth in Birdsall's Proposals dated August 24, 2012 and September 5, 2012, be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$188,500.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. Birdsall Services Group, 611 Industrial Way West, Eatontown, NJ 07724
- b. Business Administrator
- c. Township Chief Financial Officer

The following Resolution #2012-347 (Authorizing Contract CME - Construction Management Services - Tennent Road Treatment Plant) was introduced by reference, offered by Councilman LaRocca and seconded by Councilwoman Marder. After discussion, the resolution was passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-347

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN CME ASSOCIATES AND THE TOWNSHIP OF MARLBORO FOR THE PROVISION OF ENGINEERING CONSTRUCTION MANAGEMENT SERVICES IN CONNECTION WITH THE CONSTRUCTION OF THE TENNENT ROAD WATER TREATMENT PLANT FOR THE DEPARTMENT OF PUBLIC WORKS, WATER UTILITY DIVISION

WHEREAS, the Marlboro Township Municipal Utilities Authority (MTMUA) had previously determined that the construction of the Tennent Road Treatment Plant and reconstruction of the Harbor Road Treatment Plant were critical projects in need of attention between 2010 and 2013 ("projects"); and

WHEREAS, the MTMUA had obtained the necessary approvals from the New Jersey Department of Environmental Protection (NJDEP) which included the development of a new well, and initiated the

design of both the Tennent Road and Harbor Road Treatment Plants;
and

WHEREAS, upon the dissolution of the MTMUA, the Township initiated a value engineering study to determine whether the projects were essential and whether any cost savings could be realized; and

WHEREAS, it was determined by the Township that the projects were indeed essential, and suggestions for changes to the project design and scope were made; and

WHEREAS, the Township has applied for 75 percent interest free financing through the New Jersey Environmental Infrastructure Trust (NJEIT) Fund and anticipates a loan commitment for the Tennent Road Treatment Plant project upon meeting the remaining program conditions; and

WHEREAS, NJEIT requires that a contract for construction management be awarded as a condition of a loan commitment being issued; and

WHEREAS, CME Associates has provided a proposal dated September 19, 2012 (the "Proposal") for such Professional Services in connection with the Project with a not to exceed amount of \$634,689.00; and

WHEREAS, the Township of Marlboro and CME Associates have entered into a Professional Services Contract, awarded under a fair and open process, and seeks to amend such Contract to expand the scope of services to include the Professional Services (as defined hereinabove) for the Project at a fee not to exceed \$634,689.00 for such Professional Services, as further described and set forth in CME's Proposal, attached hereto and made a part hereof; and

WHEREAS, the value of the Professional Services Contract will exceed \$17,500.00 in the aggregate; and

WHEREAS, the Chief Financial Officer has certified that funds in the amount of \$634,689.00 are available for this purpose from Accounts X-06-55-900-999, X-06-55-901-999, X-06-55-903-999 and 2-05-500-288; and

WHEREAS, the Township Council has deemed it necessary and in the best interest of the Township of Marlboro to amend its contract with CME Associates to provide the required additional Professional Services for the Project in accordance with the Proposal; and

WHEREAS, the services to be provided are considered to be "Professional Services" pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for "Professional Services" without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself be available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract be published in a newspaper of general circulation in the municipality; and

WHEREAS, CME has previously completed and submitted a Business Entity Disclosure Certificate certifying that CME Associates has not made any reportable contributions that would bar the award of a contract pursuant to Marlboro Township Code Chapter 18 or N.J.S.A. 19:44A-20.5, and that no reportable contributions that would violate the law will be made during the term of the contract.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro that a Professional Services Contract between CME Associates and the Township of Marlboro, to expand the scope of services to include professional planning services by way of its Township Engineer for PROVISION OF ENGINEERING CONSTRUCTION MANAGEMENT SERVICES IN CONNECTION WITH THE CONSTRUCTION OF THE TENNENT ROAD WATER TREATMENT PLANT FOR THE DEPARTMENT OF PUBLIC WORKS, WATER UTILITY DIVISION ("Professional Services"), at a fee not to exceed \$634,689.00 for such Professional Services, as further described and set forth in CME's Proposal dated September 19, 2012 ("Proposal"), be and is hereby authorized; and

BE IT FURTHER RESOLVED, that the Mayor is hereby authorized to execute, and the Clerk to witness, in a form legally acceptable to the Township Attorney, the Professional Services Contract described herein; and

BE IT FURTHER RESOLVED, that this Professional Services Contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-5(1)(a)(i) and shall provide for compensation in an amount not to exceed \$634,689.00 for such additional Professional Services for the Project as described in the Proposal; and

BE IT FURTHER RESOLVED, that the Business Entity Disclosure Certification shall be placed on file with this Resolution; and

BE IT FURTHER RESOLVED, that a copy of the Professional Services Contract and this Resolution shall be available for public inspection in the office of the Municipal Clerk; and

BE IT FURTHER RESOLVED, notice of award of the Professional Services Contract shall be published pursuant to law, and a certified copy of this Resolution shall be provided to each of the following:

- a. CME Associates, 1460 Route 9 South, Howell, NJ 07731
- b. Business Administrator
- c. Township Chief Financial Officer

The following Resolution #2012-348 (Advising and Consenting to Appointment of Recreation Director Ted Ernst) was introduced by reference, offered by Councilwoman Marder, seconded by Councilman LaRocca and passed on a roll call vote of 4 - 0 in favor (Absent: Metzger).

RESOLUTION # 2012-348

A RESOLUTION CONFIRMING THE MAYOR'S
APPOINTMENT OF TED ERNST AS RECREATION
DIRECTOR FOR THE TOWNSHIP OF MARLBORO

WHEREAS, the Township of Marlboro is in need of Recreation Director; and

WHEREAS, Mayor Jonathan L. Hornik has appointed Ted Ernst as the Recreation Director for the Township of Marlboro; and

WHEREAS, Ted Ernst is qualified to perform the services as Recreation Director in accordance with the Township Code and State law; and

WHEREAS, pursuant to law, the appointment of Ted Ernst as Recreation Director of the Township of Marlboro is subject to the advice and consent of the Township Council; and

WHEREAS, pursuant to N.J.S.A.40:69A-44, during his tenure of Recreation Director, Ted Ernst may reside outside of the municipality.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that

1. The aforesaid recitals are incorporated herein by reference as if set forth at length.

2. The Township Council of the Township of Marlboro hereby confirms and gives its advice and consent to the appointment of

Ted Ernst as the Recreation Director for the Township of Marlboro; and

3. A certified copy of this resolution shall be provided to Mayor Jonathan Hornik.

As the consent agenda, the following resolutions were introduced by reference, offered by Councilwoman Mazzola, seconded by Councilman LaRocca, and as there was no objection, the Clerk was asked to cast one ballot (Absent: Metzger): Res. #2012-349 (Authorizing \$220 Legal Expense to League of Mun. to Support Appeal Hopewell v. Verizon), Res. #2012-350 (Authorizing Application NJDOT Municipal Aid Road Improvements - Vanderburg Road Phase III), Res. #2012-351 (Authorizing Application NJDOT Bikeways Funding - Route 79 - Station Road Bikeway), Res. #2012-352 (Authorizing Application FY 2012 Highway Safety Fund Safe Corridors Act), Res. #2012-353 (Authorizing application 2012 Drunk Driving Enforcement Act), Res. #2012-354 (Mon. County Judgment Refund - B 111, L 3), Res. #2012-355 (Mon. County Judgment Refund - B 111, L 9), Res. #2012-356 (Mon. County Judgment Refund - B 253, L 13), Res. #2012-357 (Mon. County Judgment Refund - B 408, L 11), Res. #2012-358 (Mon. County Judgment Refund - B 148.01, L 10), Res. #2012-359 (Redemption Tax Sale Certs - Various), Res. #2012-360 (Refunds for Overpayments - Various).

RESOLUTION # 2012-349

WHEREAS, the Township of Marlboro along with various other municipalities have been informed that Verizon New Jersey Inc. is no longer required to file a Return of Tangible Personal Property Used in Business by Local Business Exchange companies Form PT-10 to the affected municipalities and therefore will not be required to pay property taxes on their Tangible Personal Property for the tax year 2013; and

WHEREAS, NJSA 54:4-1 defines a "Local Exchange Telephone Company" as a telecommunications carrier providing dial tone and access to 51% of a local telephone exchange within a municipality; and

WHEREAS, Verizon New Jersey Inc. has unilaterally determined that they are not providing 51% or more of dial tone service to the Township of Marlboro along with the affected municipalities and will not file the required form and not pay the property taxes pursuant to NJSA 54:4-1; and

WHEREAS, the Borough of Hopewell in Mercer County with the support of the New Jersey League of Municipalities has contested Verizon's decision and has asked that the affected municipalities

join them in its efforts to continue contesting this matter and contribute \$220.00 for legal expenses; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Marlboro, County of Monmouth, that

(1) the Township of Marlboro shall join the League of Municipalities in its continued efforts to appeal the tax court decision in the matter of Hopewell v. Verizon;

(2) the Administration and Chief Financial Officer are hereby authorized to issue a check in the amount of \$220.00 made payable to the New Jersey League of Municipalities;

(3) the Township Clerk is hereby directed to send a certified copy of this resolution to State Senator Joseph Kyrillos and Assembly members Declan O'Scanlan and Amy Handlin.

RESOLUTION # 2012-350

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Improvements to Vanderburg Road - Phase III project.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as MA-2013-Marlboro Township-00356 to the New Jersey Department of Transportation on behalf of the Township of Marlboro.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION # 2012-351

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for the Route 79 - Station Road Bicycle Path Improvements project.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as BIKE-2013-Marlboro Township-00048 to the New Jersey Department of Transportation on behalf of the Township of Marlboro.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION # 2012-352

Resolution: Approval to submit a grant application and execute a grant contract with the New Jersey Department of Transportation for Highway Safety Fund Project.

NOW, THEREFORE, BE IT RESOLVED that the Council of the Township of Marlboro formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to submit an electronic grant application identified as FY 2012 Highway Safety Fund Safe Corridors Act to the New Jersey Department of Transportation on behalf of the Township of Marlboro.

BE IT FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the Township of Marlboro and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

RESOLUTION # 2012-353

RESOLUTION AUTHORIZING THE TOWNSHIP OF MARLBORO TO APPLY FOR DRUNK DRIVING ENFORCEMENT FUNDS FROM THE NEW JERSEY DEPARTMENT OF LAW & PUBLIC SAFETY, DIVISION OF HIGHWAY TRAFFIC SAFETY

WHEREAS, the New Jersey Department of Law and Public Safety, Division of Highway Traffic Safety (DHTS) is responsible for the administration of the Drunk Driving Enforcement Fund (DDEF) established by N.J.S.A.39:4-50.8; and

WHEREAS, under the Statute, police departments are entitled to \$95 of the \$100 surcharge resulting from a drunk driving conviction in their community. and

WHEREAS, at least 50% of the grant must be used for overtime patrols, checkpoints, or court proceedings related to drunk driving enforcement while the remainder can be used to purchase equipment, provide training and other tasks related to drunk driving enforcement; and

WHEREAS, the funds are dedicated funds and cannot be used for any other purpose; and

WHEREAS, \$5,800.17 in funds are currently available to the Township; and

WHEREAS, the Township wishes to apply for the maximum amount of funding available.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED by the Township Council of the Township of Marlboro that the Township is hereby authorized to submit an application to the New Jersey Department of Law and Public Safety, Division of Highway Traffic Safety (DHTS) and execute an agreement for funding from the Drunk Driving Enforcement Fund.

RESOLUTION # 2012-354

WHEREAS, the Monmouth County Board of Taxation has been granted a judgment in the amount of \$1,293.32 for the year 2012 for Block 111 Lot 3, located on Texas Road, assessed to Anand, Anjit K. & Anand, Jaidev S.,

WHEREAS, the application of this judgment results in a credit balance of \$429.20 for 2012 taxes, the Tax Collector is directed to refund this amount of \$429.20,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$429.20 to Anand, Anjit K. & Anand, Jaidev S.

RESOLUTION # 2012-355

WHEREAS, the Monmouth County Board of Taxation has been granted a judgment in the amount of \$1,221.01 for the year 2012 for Block 111 Lot 9, located on Texas Road, assessed to Anand, Anjit K. & Anand, Jaidev S.,

WHEREAS, the application of this judgment results in a credit balance of \$403.81 for 2012 taxes, the Tax Collector is directed to refund this amount of \$403.81,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$403.81 to Anand, Anjit K. & Anand, Jaidev S.

RESOLUTION # 2012-356

WHEREAS, the Monmouth County Board of Taxation has been granted a judgment in the amount of \$1,597.73 for the year 2012 for Block 253 Lot 13, located on 37 Truman Drive, assessed to Wardlow, John D. & Dehlia J.,

WHEREAS, the application of this judgment results in a credit balance of \$1,552.27 for 2012 taxes, the Tax Collector is directed to refund this amount of \$1,552.27,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,552.27 to Wardlow, John D. & Dehlia J.

RESOLUTION # 2012-357

WHEREAS, the Monmouth County Board of Taxation has been granted a judgment in the amount of \$3,558.48 for the year 2012 for Block 408 Lot 11, located on 25 Colts Run, assessed to Dibenedetto, Danielle,

WHEREAS, the application of this judgment results in a credit balance of \$654.72 for 2012 taxes, the Tax Collector is directed to refund this amount of \$654.72,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$1,654.72 to Dibenedetto, Danielle.

RESOLUTION # 2012-358

WHEREAS, the Monmouth County Board of Taxation has granted an appeal in the amount of \$871.85 for the year 2012 for Block 148.01 Lot 10, located at 10 Regal Drive, assessed to Yang, Yunhi & Xie, Bin,

WHEREAS, the 2012 taxes have been paid in full, the Tax Collector is directed to refund the amount of \$871.85

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro to direct the Tax Collector to refund the amount of \$871.85 to Yang, Yunhi & Xie, Bin.

RESOLUTION # 2012-359

WHEREAS, the rightful owners of several properties have redeemed tax sale certificates totaling \$ 102,418.06 as per Schedule "A",

WHEREAS, the holders of the above-mentioned tax sale certificates are entitled to the amount of the sale plus interest and costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Township of Marlboro that the amount of \$102,418.06 be refunded to the certificate holders as per Schedule "A",

SCHEDULE "A"

<u>LIEN NO</u>	<u>BLOCK/LOT</u>	<u>LIENHOLDER</u>	<u>AMOUNT</u>
2012-089 455 Bayberry Court	288/29/C0455	Bulkwark Systems, LLC 22 Emily Road Manalapan, NJ 07726 Assessed Owner: Colnick, Miriam C/O Allan	1,349.25
11-80 61 Dutch Lane Road	417/15	Ace Plus LLC 1416 Ave. L Brooklyn, NY 11230 Assessed Owners: Sterling Land Development	25,828.30
10-100 136 Beacon Hill Road	153/78.01	US Bank Cust for CCTS Services, LLC U.S Bank Corporate Trust Services Tax Lien Service Group 2 Liberty Place 50 S. 16 th St- Suite 1950 Philadelphia, PA 19102 Assessed Owners: Heln Management, LLC	35,935.60
09-10 136 Beacon Hill Road	153/78.01	Plymouth Park Tax Services, LLC P.O. Box 5822 New York, NY 10087-5822 Assessed Owners: Heln Management, LLC	39,304.91
Total:			<hr/> 102,418.06

RESOLUTION # 2012-360

WHEREAS, the attached list in the amount of \$ 13,462.80 own as Schedule "A", is comprised of amounts representing overpayments for 2012 taxes,

NOW, THEREFORE, BE IT RESOLVED by the Council of

the Township of Marlboro to refund the above-mentioned overpaid amounts as per the attached Schedule "A",

SCHEDULE "A"

<u>BLOCK</u>	<u>LOT</u>	<u>ASSESSED OWNER</u>	<u>2012 REFUND</u>
299	137	MTAG Serv. Cust. ACTF II NJ	7,740.10
499	Union Hill Rd	P.O. Box 54292 New Orleans, LA 70154	
417	3	Spreen, Margaret Rose & Walter J,	3,046.06
Buckley Road		73 Five Points Road Freehold, NJ 07728	
153	136	Reids Hill Homeowners Assoc.	2,249.27
Pleasant Valley Rd		C/O Salani 8 Beaver Hill Road Morganville, NJ 07751	
360.02	15 C301	Ashwin-Prop, LLC	427.37
2 Timber Lane		9 Red Coach Lane Holmdel, NJ 07733	
Total:			13,462.80

At 8:25 PM, Councilwoman Marder moved that the meeting be adjourned. This was seconded by Councilwoman Mazzola, and as there was no objection, the Clerk was asked to cast one ballot. (Absent: Metzger).

MINUTES APPROVED: October 18, 2012

OFFERED BY: Marder AYES: 4

SECONDED BY: Mazzola NAYS: 0

ABSTAIN: Metzger

ALIDA MANCO,
MUNICIPAL CLERK

JEFF CANTOR,
COUNCIL PRESIDENT